

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

UIRL TEMPLEMAYWEATHER

2514 Truman Ave
Oakland, CA 94605

Applicant for Registered Nurse License

Respondent

Case No. 2011-444

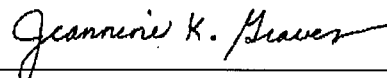
OAH No. 2010120460

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in the above entitled matter.

This Decision shall become effective on **July 15, 2011**.

IT IS SO ORDERED **June 15, 2011**.



President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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7 *Attorneys for Complainant*

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

13 **UURL TEMPLEMAYWEATHER**

14 Applicant.

Case No. 2011-444

OAH No. 2010120460

15 **STIPULATED SETTLEMENT AND**
16 **DISCIPLINARY ORDER**

17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
20 which will be submitted to the Board for approval and adoption as the final disposition of the
21 Statement of Issues.

22 PARTIES

23 1. Louise R. Bailey, M.Ed., RN ("Complainant") is the Executive Officer of the Board
24 of Registered Nursing. She brought this action solely in her official capacity and is represented in
25 this matter by Kamala D. Harris, Attorney General of the State of California, by Judith J. Loach,
26 Deputy Attorney General.

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2. Applicant Uirl Templemayweather ("Applicant") is represented in this proceeding by Eileen S. Kotler, Esq., of Balin & Kotler, LLP, 1750 Francisco Blvd, Pacifica, CA 94044.

3. On or about July 6, 2010, Applicant filed an application dated June 29, 2010, to obtain a Registered Nurse License. On or about August 19, 2010, the Board of Registered Nursing ("Board") denied Applicant's application for licensure by examination. Applicant on September 23, 2010, appealed the Board's decision.

JURISDICTION

4. Statement of Issues No. 2011-444 was filed before the Board of Registered Nursing, Department of Consumer Affairs, and is currently pending against Applicant. The Statement of Issues and all other statutorily required documents were properly served on November 23, 2010. Applicant timely filed his Notice of Defense contesting the Statement of Issues. A copy of Statement of Issues No. 2011-444 is attached as Exhibit A and incorporated herein by reference.

ADVISEMENT AND WAIVERS

5. Applicant has carefully read, fully discussed with counsel, and understands the charges and allegations in Statement of Issues No. 2011-444. Applicant has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

6. Applicant is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Statement of Issues; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

7. Applicant voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 8. Applicant admits the truth of each and every charge and allegation in Statement of
3 Issues No. 2011-444.

4 9. Applicant agrees that his Registered Nurse License application is subject to denial
5 and he agrees to be bound by the Board of Registered Nursing's probationary terms as set forth in
6 the Disciplinary Order below.

7 CONTINGENCY

8 10. This stipulation shall be subject to approval by the Board of Registered Nursing.
9 Applicant understands and agrees that counsel for Complainant and the staff of the Board of
10 Registered Nursing may communicate directly with the Board regarding this stipulation and
11 settlement, without notice to or participation by Applicant or his counsel. By signing the
12 stipulation, Applicant understands and agrees that he may not withdraw his agreement or seek to
13 rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to
14 adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order
15 shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action
16 between the parties, and the Board shall not be disqualified from further action by having
17 considered this matter.

18 11. The parties understand and agree that facsimile copies of this Stipulated Settlement
19 and Disciplinary Order, including facsimile signatures thereto, shall have the same force and
20 effect as the originals.

21 12. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an
22 integrated writing representing the complete, final, and exclusive embodiment of their agreement.
23 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,
24 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary
25 Order may not be altered, amended, modified, supplemented, or otherwise changed except by a
26 writing executed by an authorized representative of each of the parties.

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13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that the application of Applicant Uirl Templemayweather for licensure is hereby granted. Upon successful completion of the licensure examination and all other licensing requirements, a license shall be issued to Applicant. Said license shall immediately be revoked, the order of revocation stayed and Applicant placed on probation for a period of three (3) years on the following conditions:

Severability Clause. Each condition of probation contained herein is a separate and distinct condition. If any condition of this Order, or any application thereof, is declared unenforceable in whole, in part, or to any extent, the remainder of this Order, and all other applications thereof, shall not be affected. Each condition of this Order shall separately be valid and enforceable to the fullest extent permitted by law.

1. **Obey All Laws.** Applicant shall obey all federal, state and local laws. A full and detailed account of any and all violations of law shall be reported by Applicant to the Board in writing within seventy-two (72) hours of occurrence. To permit monitoring of compliance with this condition, Applicant shall submit completed fingerprint forms and fingerprint fees within 45 days of the effective date of the decision, unless previously submitted as part of the licensure application process.

Criminal Court Orders: If Applicant is under criminal court orders, including probation or parole, and the order is violated, this shall be deemed a violation of these probation conditions, and may result in the filing of an accusation and/or petition to revoke probation.

2. **Comply with the Board's Probation Program.** Applicant shall fully comply with the conditions of the Probation Program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the Respondent's compliance with the Board's Probation Program. Applicant shall inform the Board in writing within no more

1 than 15 days of any address change and shall at all times maintain an active, current license status
2 with the Board, including during any period of suspension.

3 Upon successful completion of probation, Applicant's license shall be fully restored.

4 3. **Report in Person.** Applicant, during the period of probation, shall appear
5 in person at interviews/meetings as directed by the Board or its designated representatives.

6 4. **Residency, Practice, or Licensure Outside of State.** Periods of residency
7 or practice as a registered nurse outside of California shall not apply toward a reduction of this
8 probation time period. Applicant's probation is tolled, if and when he resides outside of
9 California. Applicant must provide written notice to the Board within 15 days of any change of
10 residency or practice outside the state, and within 30 days prior to re-establishing residency or
11 returning to practice in this state.

12 Applicant shall provide a list of all states and territories where he has ever been
13 licensed as a registered nurse, vocational nurse, or practical nurse. Applicant shall further provide
14 information regarding the status of each license and any changes in such license status during the
15 term of probation. Applicant shall inform the Board if he applies for or obtains a new nursing
16 license during the term of probation.

17 5. **Submit Written Reports.** Applicant, during the period of probation, shall
18 submit or cause to be submitted such written reports/declarations and verification of actions under
19 penalty of perjury, as required by the Board. These reports/declarations shall contain statements
20 relative to Applicant's compliance with all the conditions of the Board's Probation Program.
21 Applicant shall immediately execute all release of information forms as may be required by the
22 Board or its representatives.

23 Applicant shall provide a copy of this Decision to the nursing regulatory agency in
24 every state and territory in which he has a registered nurse license.

25 6. **Function as a Registered Nurse.** Applicant, during the period of
26 probation, shall engage in the practice of registered nursing in California for a minimum of 24
27 hours per week for 6 consecutive months or as determined by the Board.

28 For purposes of compliance with the section, "engage in the practice of registered

nursing" may include, when approved by the Board, volunteer work as a registered nurse, or work in any non-direct patient care position that requires licensure as a registered nurse.

The Board may require that advanced practice nurses engage in advanced practice nursing for a minimum of 24 hours per week for 6 consecutive months or as determined by the Board.

If Applicant has not complied with this condition during the probationary term, and Applicant has presented sufficient documentation of his good faith efforts to comply with this condition, and if no other conditions have been violated, the Board, in its discretion, may grant an extension of Applicant's probation period up to one year without further hearing in order to comply with this condition. During the one year extension, all original conditions of probation shall apply.

7. **Employment Approval and Reporting Requirements.** Applicant shall obtain prior approval from the Board before commencing or continuing any employment, paid or voluntary, as a registered nurse. Applicant shall cause to be submitted to the Board all performance evaluations and other employment related reports as a registered nurse upon request of the Board.

Applicant shall provide a copy of this Decision to his employer and immediate supervisors prior to commencement of any nursing or other health care related employment.

In addition to the above, Applicant shall notify the Board in writing within seventy-two (72) hours after he obtains any nursing or other health care related employment. Applicant shall notify the Board in writing within seventy-two (72) hours after he is terminated or separated, regardless of cause, from any nursing, or other health care related employment with a full explanation of the circumstances surrounding the termination or separation.

8. **Supervision.** Applicant shall obtain prior approval from the Board regarding Respondent's level of supervision and/or collaboration before commencing or continuing any employment as a registered nurse for education and training that includes patient care.

Applicant shall practice only under the direct supervision of a registered nurse in

1 good standing (no current discipline) with the Board of Registered Nursing, unless alternative
2 methods of supervision and/or collaboration (e.g., with an advanced practice nurse or physician)
3 are approved.

4 Applicant's level of supervision and/or collaboration may include, but is not
5 limited to the following:

6 (a) Maximum - The individual providing supervision and/or collaboration is present in
7 the patient care area or in any other work setting at all times.

8 (b) Moderate - The individual providing supervision and/or collaboration is in the patient
9 care unit or in any other work setting at least half the hours Applicant works.

10 (c) Minimum - The individual providing supervision and/or collaboration has person-to-
11 person communication with Applicant at least twice during each shift worked.

12 (d) Home Health Care - If Applicant is approved to work in the home health care setting,
13 the individual providing supervision and/or collaboration shall have person-to-person
14 communication with Applicant as required by the Board each work day. Applicant shall maintain
15 telephone or other telecommunication contact with the individual providing supervision and/or
16 collaboration as required by the Board during each work day. The individual providing
17 supervision and/or collaboration shall conduct, as required by the Board, periodic, on-site visits to
18 patients' homes visited by Applicant with or without Applicant present.

19 9. **Employment Limitations.** Applicant shall not work for a nurse's registry,
20 in any private duty position as a registered nurse, a temporary nurse placement agency, a traveling
21 nurse, or for an in-house nursing pool.

22 Applicant shall not work for a licensed home health agency as a visiting nurse
23 unless the registered nursing supervision and other protections for home visits have been
24 approved by the Board. Applicant shall not work in any other registered nursing occupation
25 where home visits are required.

26 Applicant shall not work in any health care setting as a supervisor of registered
27 nurses. The Board may additionally restrict Applicant from supervising licensed vocational
28 nurses and/or unlicensed assistive personnel on a case-by-case basis.

1 Applicant shall not work as a faculty member in an approved school of nursing or
2 as an instructor in a Board approved continuing education program.

3 Applicant shall work only on a regularly assigned, identified and predetermined
4 worksite(s) and shall not work in a float capacity.

5 If Applicant is working or intends to work in excess of 40 hours per week, the
6 Board may request documentation to determine whether there should be restrictions on the hours
7 of work.

8 10. **Complete a Nursing Course(s).** Applicant, at his own expense, shall
9 enroll and successfully complete a course(s) relevant to the practice of registered nursing no later
10 than six months prior to the end of his probationary term.

11 Applicant shall obtain prior approval from the Board before enrolling in the
12 course(s). Applicant shall submit to the Board the original transcripts or certificates of
13 completion for the above required course(s). The Board shall return the original documents to
14 Applicant after photocopying them for its records.

15 11. **Violation of Probation.** If Applicant violates the conditions of his
16 probation, the Board after giving Applicant notice and an opportunity to be heard, may set aside
17 the stay order and impose the stayed discipline (revocation/suspension) of Applicant's license.

18 If during the period of probation, an accusation or petition to revoke probation has
19 been filed against Applicant's license or the Attorney General's Office has been requested to
20 prepare an accusation or petition to revoke probation against Applicant's license, the probationary
21 period shall automatically be extended and shall not expire until the accusation or petition has
22 been acted upon by the Board.

23 12. **License Surrender.** During Applicant's term of probation, if he ceases
24 practicing due to retirement, health reasons or is otherwise unable to satisfy the conditions of
25 probation, Applicant may surrender his license to the Board. The Board reserves the right to
26 evaluate Applicant's request and to exercise its discretion whether to grant the request, or to take
27 any other action deemed appropriate and reasonable under the circumstances, without further
28 hearing. Upon formal acceptance of the tendered license and wall certificate, Applicant will no

1 longer be subject to the conditions of probation.

2 Surrender of Applicant's license shall be considered a disciplinary action and
3 shall become a part of Applicant's license history with the Board. A registered nurse whose
4 license has been surrendered may petition the Board for reinstatement no sooner than the
5 following minimum periods from the effective date of the disciplinary decision:

6 (1) Two years for reinstatement of a license that was surrendered for any reason other
7 than a mental or physical illness; or

8 (2) One year for a license surrendered for a mental or physical illness.

9 13. **Physical Examination.** Within 45 days of the effective date of this
10 Decision, Applicant, at his expense, shall have a licensed physician, nurse practitioner, or
11 physician assistant, who is approved by the Board before the assessment is performed, submit an
12 assessment of the Applicant's physical condition and capability to perform the duties of a
13 registered nurse. Such an assessment shall be submitted in a format acceptable to the Board. If
14 medically determined, a recommended treatment program will be instituted and followed by the
15 Applicant with the physician, nurse practitioner, or physician assistant providing written reports
16 to the Board on forms provided by the Board.

17 If Applicant is determined to be unable to practice safely as a registered nurse, the
18 licensed physician, nurse practitioner, or physician assistant making this determination shall
19 immediately notify the Board and Applicant by telephone, and the Board shall request that the
20 Attorney General's office prepare an accusation or petition to revoke probation. Applicant shall
21 immediately cease practice and shall not resume practice until notified by the Board. During this
22 period of suspension, Applicant shall not engage in any practice for which a license issued by the
23 Board is required until the Board has notified Applicant that a medical determination permits
24 Applicant to resume practice. This period of suspension will not apply to the reduction of this
25 probationary time period.

26 If Applicant fails to have the above assessment submitted to the Board within the
27 45-day requirement, Applicant shall immediately cease practice and shall not resume practice
28 until notified by the Board. This period of suspension will not apply to the reduction of this

1 probationary time period. The Board may waive or postpone this suspension only if significant,
2 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
3 by Applicant to obtain the assessment, and a specific date for compliance must be provided. Only
4 one such waiver or extension may be permitted.

5 14. **Mental Health Examination.** Applicant shall, within 45 days of the
6 effective date of this Decision, have a mental health examination including psychological testing
7 as appropriate to determine his capability to perform the duties of a registered nurse. The
8 examination will be performed by a psychiatrist, psychologist or other licensed mental health
9 practitioner approved by the Board. The examining mental health practitioner will submit a
10 written report of that assessment and recommendations to the Board. All costs are the
11 responsibility of Applicant. Recommendations for treatment, therapy or counseling made as a
12 result of the mental health examination will be instituted and followed by Applicant.

13 If Applicant is determined to be unable to practice safely as a registered nurse, the
14 licensed mental health care practitioner making this determination shall immediately notify the
15 Board and Applicant by telephone, and the Board shall request that the Attorney General's office
16 prepare an accusation or petition to revoke probation. Applicant shall immediately cease practice
17 and may not resume practice until notified by the Board. During this period of suspension,
18 Applicant shall not engage in any practice for which a license issued by the Board is required,
19 until the Board has notified Applicant that a mental health determination permits Applicant to
20 resume practice. This period of suspension will not apply to the reduction of this probationary
21 time period.

22 If Applicant fails to have the above assessment submitted to the Board within the
23 45-day requirement, Applicant shall immediately cease practice and shall not resume practice
24 until notified by the Board. This period of suspension will not apply to the reduction of this
25 probationary time period. The Board may waive or postpone this suspension only if significant,
26 documented evidence of mitigation is provided. Such evidence must establish good faith efforts
27 by Applicant to obtain the assessment, and a specific date for compliance must be provided. Only
28 one such waiver or extension may be permitted.

1 15. **Rule-Out Substance Abuse Assessment.** If the examiner
2 conducting the physical and/or mental health examination determines that the respondent is
3 dependent upon alcohol, or has had problems with alcohol (i.e. alcohol dependence in remission),
4 that might reasonably affect the safe practice of nursing, then the respondent must further comply
5 with the following additional terms and conditions of probation.

6 **(A) PARTICIPATE IN TREATMENT/REHABILITATION PROGRAM FOR**
7 **CHEMICAL DEPENDENCE** - Respondent, at his expense, shall successfully complete during
8 the probationary period or shall have successfully completed prior to commencement of probation
9 a Board-approved treatment/rehabilitation program of at least six months duration. As required,
10 reports shall be submitted by the program on forms provided by the Board. If respondent has not
11 completed a Board-approved treatment/rehabilitation program prior to commencement of
12 probation, respondent, within 45 days from the effective date of the decision, shall be enrolled in
13 a program. If a program is not successfully completed within the first nine months of probation,
14 the Board shall consider respondent in violation of probation.

15 Based on Board recommendation, each week respondent shall be required to
16 attend at least one, but no more than five 12-step recovery meetings or equivalent (e.g., Narcotics
17 Anonymous, Alcoholics Anonymous, etc.) and a nurse support group as approved and directed by
18 the Board. If a nurse support group is not available, an additional 12-step meeting or equivalent
19 shall be added. Respondent shall submit dated and signed documentation confirming such
20 attendance to the Board during the entire period of probation. Respondent shall continue with the
21 recovery plan recommended by the treatment/rehabilitation program or a licensed mental health
22 examiner and/or other ongoing recovery groups.

23 **(B) ABSTAIN FROM USE OF PSYCHOTROPIC (MOOD-ALTERING) DRUGS -**
24 Respondent shall completely abstain from the possession, injection or consumption by any route
25 of all psychotropic (mood altering) drugs, including alcohol, except when the same are ordered by
26 a health care professional legally authorized to do so as part of documented medical treatment.
27 Respondent shall have sent to the Board, in writing and within fourteen (14) days, by the
28 prescribing health professional, a report identifying the medication, dosage, the date the

1 medication was prescribed, the respondent's prognosis, the date the medication will no longer be
2 required, and the effect on the recovery plan, if appropriate.

3 Respondent shall identify for the Board a single physician, nurse practitioner or
4 physician assistant who shall be aware of respondent's history of substance abuse and will
5 coordinate and monitor any prescriptions for respondent for mood-altering drugs. The
6 coordinating physician, nurse practitioner, or physician assistant shall report to the Board on a
7 quarterly basis respondent's compliance with this condition. If any substances considered
8 addictive have been prescribed, the report shall identify a program for the time limited use of any
9 such substances.

10 The Board may require the single coordinating physician, nurse practitioner, or
11 physician assistant to be a specialist in addictive medicine, or to consult with a specialist in
12 addictive medicine.

13 **(C) SUBMIT TO TESTS AND SAMPLES** - Respondent, at his expense, shall
14 participate in a random, biological fluid testing or a drug screening program which the Board
15 approves. The length of time and frequency will be subject to approval by the Board. The
16 respondent is responsible for keeping the Board informed of respondent's current telephone
17 number at all times. Respondent shall also ensure that messages may be left at the telephone
18 number when he is not available and ensure that reports are submitted directly by the testing
19 agency to the Board, as directed. Any confirmed positive finding shall be reported immediately to
20 the Board by the program and the respondent shall be considered in violation of probation.
21 In addition, respondent, at any time during the period of probation, shall fully cooperate with the
22 Board or any of its representatives, and shall, when requested, submit to such tests and samples as
23 the Board or its representatives may require for the detection of alcohol, narcotics, hypnotics,
24 dangerous drugs, or other controlled substances.

25 If respondent has a positive drug screen for any substance not legally authorized
26 and not reported to the coordinating physician, nurse practitioner, or physician assistant, and the
27 Board files a petition to revoke probation or an accusation, the Board may suspend respondent
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1 from practice pending the final decision on the petition to revoke probation or the accusation.
2 This period of suspension will not apply to the reduction of this probationary time period.
3 If respondent fails to participate in a random, biological fluid testing or drug screening program
4 within the specified time frame, the respondent shall immediately cease practice and shall not
5 resume practice until notified by the Board. After taking into account documented evidence of
6 mitigation, if the Board files a petition to revoke probation or an accusation, the Board may
7 suspend respondent from practice pending the final decision on the petition to revoke probation or
8 the accusation. This period of suspension will not apply to the reduction of this probationary time
9 period.

10 (D) **THERAPY OR COUNSELING PROGRAM** - Respondent, at his expense, shall
11 participate in an on-going counseling program until such time as the Board releases him from this
12 requirement and only upon the recommendation of the counselor. Written progress reports from
13 the counselor will be required at various intervals.

14 ACCEPTANCE

15 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
16 discussed it with my attorney, Eileen S. Kotler. I understand the stipulation and the effect it will
17 have on my Registered Nurse License. I enter into this Stipulated Settlement and Disciplinary
18 Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order
19 of the Board of Registered Nursing.

20 DATED: 4.11.2011

Uirl Templemayweather
UIRL TEMPLEMAYWEATHER
Respondent

22 I have read and fully discussed with Applicant, Uirl Templemayweather the terms and
23 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
24 I approve its form and content.

25 DATED: 4-11-2011

Eileen S. Kotler
EILEEN S. KOTLER, ESQ.
Attorney for Respondent

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Dated: APRIL 19, 2011

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

JUDITH J. LOACH
Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Statement of Issues No. 2011-444

1 EDMUND G. BROWN JR.
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JUDITH J. LOACH
Deputy Attorney General
4 State Bar No. 162030
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7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues
Against:

Case No. 2011-444

13 **UIRL TEMPLEMAYWEATHER**
14 **2514 TRUMAN AVENUE**
OAKLAND, CA 94605

STATEMENT OF ISSUES

15
16 Applicant.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Statement of Issues solely
21 in her official capacity as the Interim Executive Officer of the Board of Registered Nursing,
22 Department of Consumer Affairs.

23 2. On or about July 6, 2010, the Board of Registered Nursing, Department of Consumer
24 Affairs received an application for a Registered Nurse License from Uirl Templemayweather
25 ("Applicant"). On or about July 29, 2010, Uirl Templemayweather certified under penalty of
26 perjury to the truthfulness of all statements, answers, and representations in the application. The
27 Board denied the application on August 19, 2010.

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JURISDICTION

3. This Statement of Issues is brought before the Board of Registered Nursing ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code ("Code") unless otherwise indicated.

4. Section 480 of the Code states:

"(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

...

"(3) (A) Done any act that if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

"(B) The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions, or duties of the business or profession for which application is made."

...

5. Section 2761 of the Code states:

"The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

"(a) Unprofessional conduct, which includes, but is not limited to, the following:

...

6. Section 2762 of the Code states:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"(a) Obtain or possess in violation of law, or prescribe, or . . . administer any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug . . . as defined in Section 4022."

...

1 7. Health and Safety Code section 11054, subdivision (d)(13) provides that marijuana is
2 classified as a Schedule I controlled substance.

3 CAUSE FOR DENIAL OF APPLICATION

4 (Criminal Plea – Possession of a Controlled Substance - Marijuana)

5 8. The Applicant's license application is subject to denial under Code sections 2761,
6 subdivision (a), and 2762, subdivision (a), in that on or about March 26, 2010, in a criminal
7 proceeding entitled *State of Maryland v. Uirl O. Templemayweathe (sic)* in the District Court of
8 Maryland for Montgomery County, Case Number 3D00241328, Applicant entered into a plea
9 with the State's Attorney for a violation of Maryland C.R. 5.601(a)(1) [possession of marijuana],
10 a misdemeanor. In exchange for entering and completing the "Intervention Program for
11 Substance Abusers," Applicant's criminal case was disposed of by way of a "stet" on the
12 criminal docket pursuant to Maryland Rule 4-248.¹ The circumstances giving rise to this plea are
13 as follows: On December 1, 2009, Applicant was stopped by a Maryland police officer as his
14 front seat passenger was not wearing a seat belt. Upon contact with the Applicant, the officer
15 noticed a strong odor of fresh marijuana emanating from inside his vehicle. The Applicant
16 consented to a search, with the officer recovering two bags of marijuana from the center console
17 and one sandwich sized bag from the inside of the Applicant's backpack.

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26 ¹ Maryland Criminal Rule 4-248 governs the disposition of a criminal charge by "stet."
27 The Rule provides in relevant part that: "(a) Disposition by stet. On motion of the State's
28 Attorney, the court may indefinitely postpone trial of a charge by marking the charge "stet" on the
docket A stetched charge may be rescheduled for trial at the request of either party [State's
Attorney or Defendant] within one year and thereafter only by order of the court for good cause."

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Uirl Templemayweather for a Registered Nurse License.
2. Taking such other and further action as deemed necessary and proper.

DATED: 11-16-10

for LOUISE R. BAILEY, M.ED., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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